



State of Delaware
Commission on Forensic Science
(CFS)

Minutes - 11/14/16

10:00 a.m. – 12: 00 Noon

Division of Forensic Science - 1st Floor Conference Room
200 South Adams Street
Wilmington, DE 19801

1. Welcome and Call to Order

- The meeting was called to order by Secretary Rita Landgraf. She provided a brief welcome and thanked everyone for coming. In attendance were:

Voting Commission Members

Secretary Rita Landgraf	Department of Health & Social Services - Chair
Chief Randall L. Hughes	Delaware Police Chiefs' Council - Vice-Chair
DAG Sean Lugg	Department of Justice-Deputy Attorney General
Representative John Mitchell	Delaware House of Representatives
Secretary James N. Mosley	Department of Safety & Homeland Security
Lisa Schwind, RN, Esquire	Office of Defense Services-Public Defender's Office
Anita Symonds, RN	Christiana Care
Clytrice L. Watson, Ph.D.	Interim Dean-College of Math, Natural Sciences & Technologies, Delaware State University

Non-voting Attendees

Commission's Legal Support

DAG Lisa Morris	Department of Justice
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Additional Non-voting Attendees

Lauren DiPietro	Student – Duquesne University
John R. Evans	DFS - Director
Isabella Kaplan	DTI - Customer Engagement Specialist
Jessica Smith	DFS - Chief Forensic Toxicologist
Rebecca Walker	DFS - Chief Operating Officer

Absent Voting Commission Members

Senator Robert Marshall	Delaware State Senate
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2. Approval of the Minutes

- Ms. Lisa Schwind said the minutes referred to her as “DAG” Schwind and requested a correction. DAG Lugg made a motion to approve with the corrections; and Chief Hughes seconded the motion. Ms. Symonds abstained because she has not yet read the minutes. Hearing no other objections, all other voting members in attendance unanimously voted to approve the minutes of the September 12, 2016 meeting.

3. Change of Commission’s Chair/Vice-Chair

- Governor Markell’s administration is transitioning out and Governor-elect Carney’s administration will be coming in, and this will mean a new appointment for Secretary of the Department of Health & Social Services. Secretary Landgraf said it has been an honor to serve as Chair on this Commission and she will be staying until the new Secretary is confirmed, which is typically the third week of January when the Senate makes that confirmation. She continued that this will be her last meeting and she would like to thank everyone for their due diligence and for the great work done for this Commission.
- The Vice-Chair Chief Hughes will serve as Chair of the Commission; Secretary Landgraf made the motion, DAG Lugg seconded the motion. Vote unanimous.
- Chief Hughes suggested that between now and our next meeting that any nominations to be considered be made via e-mail by Commission members. DAG Morris said, yes, nominations could be e-mailed to Chief Hughes and the Commission could vote on those nominations at the next meeting.

4. DFS Update

- Director Evans has been at DFS for just over a month and his belief in the quality, professionalism, commitment and work ethic of DFS people has been reaffirmed. He thanked Becky Walker and Pat McIlvaine and the entire DFS leadership team for their patience, understanding and support while helping him to acclimate to the position. He held his first division-wide meeting in Wilmington. Thoughts shared were:
 - Teamwork;
 - Setting clear and realistic expectations;
 - A collaborative model where each discipline within DFS is equally invested in the overall success of the division;
 - A stratified model of accountability across the board, where each team member has a specific role toward meeting the overall mission;
 - Open lines of communication and transparency.
- Director Evans stated that moving forward, he has a three-prong approach:
 1. Ensure that DFS people have a safe, effective and efficient work environment through staffing levels, training, instrumentation and needed building modifications.

2. Wean from DFS dependence on NMS to outsource drug evidence and become an independent lab, capable of accommodating the forensic science needs of the criminal justice community in Delaware.
 3. Look to the future in terms of developing a state-of-the-art statewide forensic science infrastructure.
- In addition, there are several on-going partnerships and collaborations between DFS and its fellow stakeholders in the public health arena focused on:
 - mass casualty and fatality planning;
 - combating the opioid epidemic through information sharing;
 - providing data to be used in the National Violent Death Reporting System; and
 - being one of 18 states in the country participating in a DNA biorepository genetic study with the CDC looking at Sudden Unexplained Infant Deaths. Our office has the highest compliance rate in the country in terms of percentage of appropriate samples being sent to the CDC and percentage of consents to use those samples for future genetic testing.
 - Dr. Lyndsey Emery was successful in becoming a Board Certified Forensic Pathologist and has a specialty as a Board Certified Neuropathologist, which prevents DFS from having to outsource neuro samples.
 - In October, the Toxicology Unit signed out a record number of completed cases (176) and continue to steadily decrease the number of backlogged or pending cases.
 - The DNA Unit continue to do a very effective job with case management and have begun to accept older and yet untested sexual assault kits from the Wilmington Police Department. In addition, the DNA Unit expedited analysis on a sensitive and violent case submitted by the NCCPD in October and were able to process the results within 2 weeks.
 - The DNA Unit has reduced their turnaround time on cases from last year – dropping from 65 to 46 days.
 - The three-prong approach will be:
 - 1) Ensure a safe, effective and efficient work environment through staffing levels, training, instrumentation and needed building modifications.
 - a. Staffing:
 - i. Forensic Chemistry Unit: Three offers have been given and accepted to fill the analytical chemist vacancies. Background checks have just been completed and their start dates will be at the end of November and beginning of December. OMB has transferred six full-time positions to DFS to be used to increase FCU complement of analytical chemists in the unit to 13. These positions will be posted once the transfer process is complete and the positions have been downloaded into the system. Director Evans is working with Secretary Mosley to secure funding to support the purchase of additional equipment and building modifications necessary to accommodate this additional staffing.

ii. Toxicology Unit: An offer was given and accepted to fill the analytical chemist vacancy. The new hire is in background check with hire date yet to be determined.

iii. Pathology Unit: Two casual/seasonal forensic investigators have been hired for the Georgetown office and start their orientation today. A casual/seasonal forensic investigator was also hired for the Wilmington office.

- Chief Hughes asked how many casual/seasonal employees are currently operating within DFS. He said casual/seasonal employees are okay but not the way to go. COO Walker responded that DFS has 8-9 casual/seasonal positions and that the additional 6 chemist positions are all full-time. Director Evans agrees that casual/seasonal positions have been used in the past as a band-aid to help meet a mission, but it is not the solution. Chief Hughes said the 8-9 casual/seasonal positions make up more than 10% of the current workforce and that is a quick snapshot of not a good thing.
- The job posting for the casual/ seasonal pathologist position in Georgetown has been added to two national websites in an effort to increase recruitment. DFS still have not received any applications.
- Ms. Schwind asked if it were a given number of hours per day that the employee is to work or can they just come in and do their work and then leave. Director Evans responded that the casual/seasonal positions come with a maximum number of hours allowed per week which is 29.5 hours. Ms. Schwind asked if there were a minimum number of hours required or is it on an “as needed” basis. Director Evans replied that he did not know if a minimum number of hours were required.
- Ms. Schwind said she looked at the job description site to see if she could discover why the pathologist position wasn’t being filled. She found that the pay being offered is really low (\$106 or \$108 per hour). She said what her office pays for experts who are board-certified forensic pathologists, or at that level, is a whole lot more than what is being offered. Ms. Schwind thinks that DFS are not just going to happen to have a person who lives in Georgetown, or just happen to have a person who wants to drop in to do autopsies, or just happen to have a pathologist who retired to Rehoboth – she does not think this is going to transpire. Director Evans said DFS did have one exist – Dr. McDonough, who retired to Lewes. Ms. Schwind thinks it is the money that is holding people back from applying.
- Secretary Mosley noted that pay has been an issue with a lot of positions with this organization, even prior to his arrival on the scene and continues to be an issue. He believes it is a big part of the reason why there are no applicants for the pathologist position. Secretary Landgraf asked if this has ever been reviewed by Compensation Board. COO Rebecca Walker said, yes, and it is aligned with the government pathologists within the region. Ms. Schwind said it is unfair to DFS staff to drive back and forth from Wilmington to Georgetown and also unfair to the people of Sussex County.

- There are 22 pathologist positions open across the country that are not being filled; there seems to be more of a demand than physicians to fill them. DFS will continue to be as aggressive as it can with the recruitment effort until the position is filled.
- iv. Quality Assurance Manager: Seven candidates will be interviewed on 11/16/16 and, hopefully, DFS will fill this critical role shortly thereafter.
 - v. Office Manager: This position has been posted for the Georgetown office with 56 response applications. Applications will be vetted and interviews scheduled.
 - vi. Management Analyst/Forensic Technology Analyst: Casual/ seasonal position here in Wilmington which will focus on IT and management of the FLIMS system. One interview was conducted and that position will be reposted.
 - vii. Lab Maintenance Technician: Due to a significant annual cost quote by Specialty Underwriters to conduct routine lab maintenance outside the scope of existing maintenance contracts, DFS is pursuing a casual/seasonal position. Chief Toxicologist Smith added that the problems DFS are encountering with Facilities Maintenance are that if it is not attached to the building, they do not fix it; it's not that they don't know how to fix things (i.e., clogged drains or leaking lines), Facilities say their hands are tied by the contract not to perform the work.
- b. Building Modifications:
- i. The morgue construction project is scheduled to begin with a target date of February, 2017, and is expected to last for approximately three months. This will be a significant project to include installing a new HVAC system, refrigerated storage system and fire suppression system to the older portion of the building. Monies have already been allocated for this phase of the project. In addition, DFS hope to take advantage of the time the morgue operations are closed to complete other modifications to the morgue suite to make it not only safe and more efficient, but also bringing DFS closer to compliance with NAME accreditation standards. These additional modifications include:
 - Removal of the old and non-functioning autopsy tables and replace with three new dissecting stations (~\$30,000).
 - Cover tile and grout floor with epoxy (NAME working with Facilities Maintenance on cost).
 - Install a body lift system in the receiving area (~\$35,000).
 - Add a sally port structure in the alley to cover and secure the area when decedents are transferred (working with Facilities Maintenance on cost).
 - ii. DFS is in the process of costing out the lease of a temporary refrigerated storage unit to house decedents during morgue shutdown (~\$3,000/month).
 - iii. Due to limited space concerns, the temporary storage unit will not be located here at DFS and will be located on the DHSS campus.

- iv. The morgue shutdown will have a significant impact on pathology operations and funeral home pick-ups.
- v. It will also require flexibility and inconvenience to all the people who work here. There will be very limited to no parking during the project and DFS is working on locating a parking site.
- vi. DFS is working with security contractor, AdvanTech, at the Georgetown office to add security card readers to the exterior doors in an effort to increase security and accountability.
- vii. DFS is working on a plan to open a Kent County satellite office for Forensic Investigators. This will result in shorter response times to scenes, DFS ability to better manage fatigue among the investigators, and reduce overtime expenditures.

c. Technology and Equipment:

- i. During the first week of November, DTI placed a barcode scanner and printer in the Evidence Technicians' office for a two-week trial and error. After that time, the equipment will be rotated to each of the units for a similar test period. Once that has been done, the barcoding system will be implemented.
 - Chief Hughes asked for the timeline for establishing a statewide barcoding system. Director Evans said he did not know and asked DAG Morris if she knew where the barcoding project stands currently. DAG Morris responded that the formation of a statewide barcoding system involved Peggy Bell, DELJIS, and her last conversation with Peggy was that she had a 10-page project list and the barcoding system was not on that list, so DAG Morris is not certain where Peggy Bell stands at this moment in respect to what has been done so far. Secretary Mosley said he will touch base with Peggy, but personally thinks that when she initially agreed to take on this project, she did not envision the enormity of the situation. Secretary Landgraf said we should include the creation of a statewide barcoding system as part of the feasibility study.
- ii. The FLIMS Medical Examiner module will begin on January 1, 2017.
- iii. Two new fume hoods have been delivered and installed in the DNA lab to replace old and problematic hoods (Grant funded).
- iv. DFS will soon be acquiring two portable fingerprint scanners for use by Forensic Investigators to facilitate and expedite the identification of unknown decedents.
- v. AdvanTech will be adding a panic alarm in the Reception Area on the first floor in an effort to make DFS people feel safer in the event of an incident.

d. Training:

- i. All DFS employees will be attending a mandatory two-hour training block in late November or early December to cover topics including: bioethics, chemical labels and MSDS sheets, laboratory safety, chemical hygiene and fire safety.
- ii. In addition, DFS will be scheduling an all-day training session to cover topics including: sexual harassment, diversity, and violent intruder preparedness and response.

2) The second prong is to wean from dependence on NMS to outsource drug evidence and become an independent lab.

- a. DFS will increase its current staffing and instrumentation, and will post for six additional analytical chemists in the Forensic Chemistry Unit, bringing FCU full complement to 13.
- b. There is a significant backlog of hundreds of drug cases, both at DFS, and at NMS. In an effort to tackle this backlog of cases, DFS/DOJ/NMS have been meeting regularly. The DOJ have created a task force (consisting of two Deputy Attorney Generals and one Paralegal) to oversee the management of the cases by creating a prioritized master list of cases. They have scrutinized the master list of backlogged cases, and as a result of their review, they have been able to eliminate over 200 cases due to cease test, pleas, etc. Additionally, beginning November 1st, all Law Enforcement Agencies in New Castle County, including the New Castle County Police Department, started transporting their cases directly to NMS. Those from Kent and Sussex will continue to transport their evidence to DFS. This process will be reviewed after two months and evaluated as to whether or not to move forward with it.
- c. With a decreased number of cases coming into DFS, it will be able to better focus on the backlogged cases. NMS, with the support of DFS and DOJ, are working with DTI to allow NMS to push data in the form of litigation packets directly into FLIMS. This will make the process much more efficient over the current process of using "Box.com".
- d. NMS has advised DFS that they are ramping up resources and will be able to accommodate an increased number of exhibits per month from the current 400 to as much as 800 in 2017.
- e. The plan is to continue DFS' current relationship with NMS for the next year to 18 months, during which time DFS will increase and fully train the new chemists so that they will be able to handle cases on their own and at that point, DFS can start to become independent of NMS.

- Chief Hughes asked if this plan means additional cost. Director Evans said that in discussions held between DOJ and FCU, it was deemed more fiscally responsible to send the smaller cases to NMS and keep the larger cases here. Secretary Mosley noted that if DFS send larger cases to NMS, ridiculous costs come along with it and then the existing DFS cases are set aside, thus growing the cases that are backlogged. As to Chief Hughes question about increasing spending, said Director Evans, yes – if DFS send more cases out, the costs increase proportionately. Chief Hughes said he just wants to make sure that it is understood that the money provided by OMB for the past two years for outsourcing and the additional staffing, all of those monies need to come back here as part of the DFS operational budget.
- f. Director Evans does not like the idea of having this significant number of cases in backlog, but his message to the Commission is that in working with NMS and DOJ, DFS will aggressively manage those cases. It is also important to know that it is my understanding that to-date, DFS have not had any cases dismissed as a result of the backlog.
 - g. In addition the turnaround time for cases in the Forensic Chemistry Unit has decreased from 49 days in FY'16 to 38 days in this current year, with an anticipated 35 days in FY'18 once they have a full complement of chemists on board.
3. The third and final prong is looking to the future to develop a state-of-the-art statewide forensic science infrastructure.
 - a. The first step is having an engineering and feasibility study completed on this building. DFS was not successful in securing funding to support such a study during the last fiscal year.
 - b. In working with Facilities Management, a normal study would cost anywhere between \$100,000 and \$150,000; however, in DFS' case, the cost projection for the study is closer to \$250,000-\$300,000. It is significantly higher given the complex and diverse nature of DFS operational needs. A firm has been identified which has been used by DNREC in the past that can do very detailed laboratory process mapping and resulting space layout. It's an additional cost, but will help size the space appropriately, give a true representation of what is needed, determine if renovations to the existing building are an option, and develop a more accurate cost estimate for renovations or new construction. This is exactly what DFS need as a starting point for discussions moving forward with a new facility.
 - c. The question continues to be where to find the funding to support this study. DFS will continue to work on a document to support funding through the state's SLEAF Fund, which is managed by the Attorney General. Director Evans said he knows from having sat on the Executive Board in the past, this will be a very unique request and if approved, would not be able to cover the full cost. The CJC is another viable option but again only a portion of the cost would be covered.

- d. Director Evans asked the Commission to be a very loud and strong voice in Dover for DFS. He believes it is critical that DFS and the Commission make DFS' needs known. Director Evans plans to work with the Secretary in hope of having Governor-elect Carney's transition team come here to visit DFS and get a first-hand view and understanding of where DFS have come from, where DFS are, and where DFS need to be.
- As a follow-up item from DFS lasting meeting, said Director Evans, Johna Esposito helped him in locating the NAME report from July 2015. In part, the report includes the listing of two deficiencies in the morgue area: 1) the exposed area where bodies are loaded and unloaded; and 2) flooring with tile and grout which DFS are addressing. DFS hopes that with the morgue reconstruction project and the feasibility study underway, NAME would give DFS an extension on the accreditation.
 - Director Evans recalled that there was also a request at the last meeting to review the number of autopsies conducted on cases from both the Wilmington and Georgetown offices. COO Rebecca Walker said that Dr. Collins pulled data together to furnish the Commission with total cases per location from 2014 through October 2016, as follows:
 - 2014: Wilmington - 560 Cases; Georgetown - 406 Cases
 - 2015: Wilmington - 575 Cases; Georgetown - 336 Cases
 - 2016: Wilmington - 586 Cases; Georgetown - 343 Cases
 - Ms. Schwind said she does not understand DFS needing one part-time pathologist in Georgetown and having four full-time pathologists in Wilmington, when the case numbers for Georgetown are so high and growing. COO Walker said DFS does not have control over number of pathologists and DFS would have to go before OMB and justify DFS numbers in order to make this a full-time position. Secretary Landgraf said if these numbers have not been shared with OMB, she thinks it would be a good start to make a case for need of another full-time pathologist. Chief Hughes said he thinks DFS needs to look at these numbers themselves – there are four pathologists in this building and none at Georgetown; he believes it is a situation of correctly allocating DFS resources. DAG Lugg says DFS have no control in reclassifying a part-time job to a full-time job, but DFS does have control of where a person is physically situated and could choose to allocate an FTE to Georgetown instead of a Casual/Seasonal. Ms. Schwind said it doesn't make sense that if it takes four people to do 586 cases that it would only take a part-time person to do 343 cases. COO Walker said that work in Georgetown comes in spurts; and there were times when Dr. McDonough had no cases at all for days and so the casual/seasonal position was based on that knowledge. Director Evans said there are some staff members who are adamant that they are not going to Georgetown. Ms. Symonds inquired if there are consequences for employees who are refusing to go or if DFS could offer some type of enticement. However, she does think the culture needs to change here and is glad this is being brought up and will be in the minutes. Ms. Symonds said sometimes people just have to move on; maybe someone has been here too long. She works with physicians and they have to stay up with technology and be flexible and today have more work put on them with less time to do it. The bottom line, said Chief Hughes, is that resources are not being managed properly.

5. Standards & Certifications Advisory Committee

- Dr. Watson reported that the committee was dormant over the summer but did meet on September 21st. Dr. Watson related that Johna Esposito and Jamie Armstrong, from DFS, are going to assist in a step-increase plan. Apparently, there is already a plan in place for managers, but not one for staff members. She said that Jamie Armstrong is already working on this and is gathering pay rates across the country – at the local, state, and federal levels and how DFS compares in relation to them. Dr. Watson said although the committee is going to do more work on this, Jamie did provide some well-documented information. The Committee also talked about the development of a step-increase plan and started a discussion around developing a guideline for interns as to:
 - what is required regarding skill sets;
 - requirements regarding background checks;
 - define activities students should be participating in, giving the nature of what DFS do;
 - create student activities that will be meaningful;
 - promote pursuing a career in forensics and, hopefully, develop home grown talent;
 - what are the expected outcomes for students and DFS; it should be a win-win situation.
- Dr. Watson reported they have welcomed two new members on the committee: Susan Wilgus, who is a forensic nurse with the Public Defender's Office, and Krystal Hans, who is a forensic scientist at Delaware State University.
- Dr. Watson recalled that at the last Commission meeting, she raised the question whether or not there was an actual need for this committee to exist. She said that the Standards & Certifications Advisory Committee has no problem taking on these two topics completely, but wanted to make sure Director Evans was in agreement.
- Ms. Symonds said that because DFS has a relationship with these colleges, is there any chance for educational opportunities, meaning the libraries, for employees at DFS to use. She asked if DFS has access to the various libraries of the universities or could they. Dr. Watson said that is a good question. Secretary Landgraf added that one of the points brought up about internships was a “win-win” situation meaning that both parties get something from the relationship. She said that perhaps the staff here could use the universities' libraries without additional costs and DFS would be cultivating a future workforce through internships.
- Secretary Landgraf said perhaps the committee could add succession planning to their agenda. She said they could look at professions whose demand outweigh supply and think strategically about that void, perhaps adding something to the curriculum and start building upon that in filling the voids and get ahead of the curve.

6. Strategic Planning Advisory Committee

- Major Evans reported that the committee has not met since the last Commission meeting. He noted that he is willing to stay on as a committee member.

7. Commission Members Open Discussion

- Ms. Symonds said she thinks that the public should have access to Commission members. To make things transparent, she said, DFS should list the Commission members, who they are and how to contact them. COO Walker said DFS and DTI are working on updating the DFS site and the Commission will be listed there. DFS has made it a user friendly site where the public can request death certificates, autopsies, contact a member of staff, etc. COO Walker thinks it is becoming an excellent website and urged everyone to take a look (<http://dshs.delaware.gov/forensics/>).
- Ms. Symonds also discussed the role of a DAG as counsel to the Commission, as well to DFS, and asked if there may be potential for some conflict of interest. Secretary Landgraf said unless specific instructions are specified in the code, most DAG's where Commissions are concerned, are placed as a civil legal authority just for interpretation purposes.
- Secretary Mosley said he is going before OMB for a budget hearing on February 1st. Chief Hughes said he would like to appear at that hearing and speak on behalf of the Commission regarding the \$300,000 feasibility study and everyone agreed. DAG Lugg made a motion that Chief Hughes appear at the budget hearing on behalf of the Commission. Representative Mitchell seconded the motion and encouraged Chief Hughes to also submit a letter on behalf of the Commission, saying it is good to verbally present DFS' case, but it is also nice to have the documentation put together, codified by all.
- Chief Hughes sincerely thanked Secretary Landgraf for her service and that a lot of great things have been accomplished during her tenure.

Adjourn

- Hearing no other questions/concerns, Secretary Landgraf acknowledged the meeting was adjourned.

Next Meeting Date: Monday, April 10, 2017

10:00 am – 12:00 am

Location: DFS, 200 South Adams Street, Wilmington, DE
1st Floor Conference Room